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EXAMINER

CHARLES, DEBRA F

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/393,899

Applicant(s)

BRAITBERG ET AL.

Examiner

Debra F. Charles

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11. 6) ☐ Other: _____

Claims 1-30 have been reviewed.

DETAILED ACTION

Response to Amendment

1. Claims 1 and 2 have been amended. The specification has been amended.

Response to Arguments

2. Applicant's arguments filed 09 April 2002 have been fully considered but they are not persuasive in light of new ground for rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruse et al. (US 6389538 B1) and Patterson (US 6389541 B1).

As per claim 1 (Twice Amended).

Gruse et al. disclose a method for distribution (Gruse et al., Abstract, Col. 25, Lines 1-45) of storable content (Gruse et al., Abstract, Col. 3, Lines 20-35) comprising: distributing information content-mastered media (Patterson, Abstract, Col. 3, Lines 20-45) including at least said storable content (Gruse et al., Abstract, Col. 3, Lines 20-35) and a media identifier number (Gruse et al., Abstract, Col. 31, Lines 35-41, Col. 32, Lines 45-50), to a plurality of users including a first user, at least a portion of said storable content (Gruse et al., Abstract, Col. 3, Lines 20-35) readable by at least a first media reader apparatus (Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50) only in response to at least a first access code (Gruse et al., Abstract, Col. 35, Lines 30-35); and distributing a first permission code (Gruse et al., Abstract, Col. 49, Lines 30-60) to said first media reader apparatus (Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10,

Lines 35-50) in exchange for a first payment, said media storing a first code related to said first permission code(Gruse et al., Abstract, Col. 49, Lines 30-60) at a first time, said first permission code(Gruse et al., Abstract, Col. 49, Lines 30-60) in combination with said first code providing said first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) and permitting at least a first access to said at least a portion of said storable content(Gruse et al., Abstract, Col. 3,, Lines 20-35).

As per claim 7(Previously Amended).

Gruse et al. disclose a method, as claimed in claim 1, wherein said step of distributing information content-mastered media(Patterson, Abstract, Col. 3, Lines 20-45)(Gruse et al., Abstract, Col. 3,, Lines 20-35) comprises unsolicited distributing of media(Gruse et al., Abstract, Col. 1, Lines 55-65, Col. 88).

As per claim 8(Previously Amended).

Gruse et al. disclose a method, as claimed in claim 1, wherein said step of distributing information content-mastered media(Patterson, Abstract, Col. 3, Lines 20-45) comprises downloading said content to said media over a communications link(Gruse et al., Abstract, Col. 1, Lines 55-65).

As per claim 15(Previously Amended).

Gruse et al. disclose a method for distribution of storable content comprising:

receiving a plurality of information content-mastered media(Patterson, Abstract, Col. 3, Lines 20-45) in a retail establishment(Gruse et al., Abstract, Col. 12, Lines 55-67, Col. 13, Lines 1-30), said information content-mastered media(Patterson, Abstract, Col. 3, Lines 20-45) including at least said storable content and a media identifier number (Gruse et al., Abstract, Col. 31, Lines 35-41, Col. 32, Lines 45-50), said media readable by at least a first media reader apparatus (Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50) only in response to an access code(Gruse et al., Abstract, Col. 35, Lines 30-35), wherein said retail establishment (Gruse et al., Abstract, Col. 12, Lines 55-67, Col. 13, Lines 1-30) is accessible to a plurality of users including a first user; storing, during a first time, at said retail location(Gruse et al., Abstract, Col. 12, Lines 55-67, Col. 13, Lines 1-30), a first code related to a first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) on said media in exchange for a first payment(Gruse et al., Abstract, Col. 49, Lines 60-67, Col. 50, Lines 1-30) by said first user to said retail establishment; and providing at least first access to said storable content (Gruse et al., Abstract, Col. 3,, Lines 20-35) by providing said first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) to said first reader apparatus(Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50), using said first code.

As per claim 17.

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Gruse et al. disclose a method for distribution of storable content (Gruse et al., Abstract, Col. 3,, Lines 20-35)comprising:

copying at least portions of said storable content (Gruse et al., Abstract, Col. 3,, Lines 20-35)from information content-mastered media(Patterson, Abstract, Col. 3, Lines 20-45) onto a writeable medium to define copied content on said writeable medium, said information content-mastered media(Patterson, Abstract, Col. 3, Lines 20-45) including at least said storable content (Gruse et al., Abstract, Col. 3,, Lines 20-35)and a first media identifier number (Gruse et al., Abstract, Col. 31, Lines 35-41, Col. 32, Lines 45-50), said copied content readable by at least a first media reader apparatus (Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50)only in response to an access code(Gruse et al., Abstract, Col. 35, Lines 30-35);

storing during a first time, a first code related to a first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) on said writeable medium exchange for a first payment(Gruse et al., Abstract, Col. 49, Lines 60-67, Col. 50, Lines 1-30) by a first user; and

providing at least first access to said copied content by providing said first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) to a first reader apparatus(Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50), using said first code.

As per claim 18.

Gruse et al. disclose a method, as claimed in claim 17, wherein said writeable medium includes a second media identifier number (Gruse et al., Abstract, Col. 31, Lines 35-41, Col. 32, Lines 45-50) different from said first media identifier number of said information content-mastered media(Patterson, Abstract, Col. 3, Lines 20-45), and wherein said access code(Gruse et al., Abstract, Col. 35, Lines 30-35) is based on a combination of said second media identifier number (Gruse et al., Abstract, Col. 31, Lines 35-41, Col. 32, Lines 45-50) and said first code.

As per claim 20(Previously Amended).

Gruse et al. disclose a method for distribution of storable content (Gruse et al., Abstract, Col. 3,Lines 20-35)on information content-mastered media(Patterson, Abstract, Col. 3, Lines 20-45), said media including at least first and second content and a media identifier number (Gruse et al., Abstract, Col. 31, Lines 35-41, Col. 32, Lines 45-50), the method comprising:

storing a first code related to a first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) on said media, at a first time, obtained in exchange for a first payment(Gruse et al., Abstract, Col. 49, Lines 60-67, Col. 50, Lines 1-30);

providing access to said first content by providing said first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) to a reader apparatus(Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50), using said first code, wherein access to said second content is unavailable on the basis of said first code;

storing a second code related to a second access code(Gruse et al., Abstract, Col. 35, Lines 30-35) on said media obtained at a second time, later than said first time, in

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exchange for a second payment(Gruse et al., Abstract, Col. 49, Lines 60-67, Col. 50, Lines 1-30);

and providing access to said second content by providing said second access code to a reader apparatus(Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50), using said second code.

As per claim 24.

Gruse et al. disclose a method of advertising, comprising:
distributing optical disks content-mastered media(Patterson, Abstract, Col. 3, Lines 20-45) including at least a first electronically stored advertisement(Gruse et al., Abstract, Col. 88) wherein at least a portion of said optical disk is writeable content-mastered media(Patterson, Abstract, Col. 3, Lines 20-65).

As per claim 25.

Gruse et al. disclose a method, as claimed in claim 24, wherein said advertisement is interactive(Gruse et al., Abstract, Col. 1, Lines 55-65, Col. 88).

As per claim 26.

Gruse et al. disclose a method, as claimed in claim 24, wherein said advertisement includes a user-activatable hyperlink(Gruse et al., Abstract, Col. 1, Lines 55-65, Col. 88).

As per claim 30.

Gruse et al. disclose a computer program product for distributing storable content (Gruse et al., Abstract, Col. 3, Lines 20-35)on information content-mastered media(Patterson, Abstract, Col. 3, Lines 20-45), said media including at least first and second content and a media identifier number (Gruse et al., Abstract, Col. 31, Lines 35-41, Col. 32, Lines 45-50), the computer program product comprising:

signal bearing media bearing programming adapted to store a first code related to a first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) on said media, at a first time, obtained in exchange for a first payment(Gruse et al., Abstract, Col. 49, Lines 60-67, Col. 50, Lines 1-30);

provide access to said first content by providing said first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) to a reader apparatus, using said first code, wherein access to said second content is unavailable on the basis of said first code;

store a second code related to a second access code(Gruse et al., Abstract, Col. 35, Lines 30-35) on said media obtained at a second time, later than said first time, in exchange for a second payment(Gruse et al., Abstract, Col. 49, Lines 60-67, Col. 50, Lines 1-30); and

provide access to said second content by providing said second access code(Gruse et al., Abstract, Col. 35, Lines 30-35) to a reader apparatus, using said second code.

For claims 1,7,8,15,17-18, 20, 24-26 and 30, Gruse et al. fail to disclose information content-mastered media.

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Patterson disclose information content-mastered media(Patterson, Abstract, Col. 3, Lines 20-45) to get the benefit of initially structured media on a CD-ROM.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gruse et al. to include information content-mastered media as taught by Patterson to get the benefit of initially structured media on a CD-ROM.

As per claim 4(Previously Amended).

Gruse et al. disclose a method, as claimed in claim 1, further comprising distributing to said media reader, a second permission code(Gruse et al., Abstract, Col. 49, Lines 30-60) obtained by said first user at a second time, later than said first time, in exchange for a second payment(Gruse et al., Abstract, Col. 49, Lines 60-67, Col. 50, Lines 1-30) wherein said media stores a second code related to a second access code(Gruse et al., Abstract, Col. 35, Lines 30-35), the second permission code(Gruse et al., Abstract, Col. 49, Lines 30-60) being on said media, said media permitting at least second access, different from said first access(Patterson, Abstract), to said storable content (Gruse et al., Abstract, Col. 3,, Lines 20-35)by providing said second access code(Gruse et al., Abstract, Col. 35, Lines 30-35) to said reader apparatus(Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50), using said second code.

Gruse et al. fails to disclose at least second access different from first access.

Patterson disclose at least second access different from first access(Patterson, Abstract) to get the benefit of distinguishing the difference between the first and second access.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gruse et al. to at least second access different from first access as taught by Patterson to get the benefit of distinguishing the difference between the first and second access.

As per claim 27.

Gruse et al. disclose a method, as claimed in claim 24, wherein said advertisement includes an advertisement(Gruse et al., Abstract, Col. 88) for content stored on said optical disk(Patterson, Abstract, Col. 3, Lines 20-45), wherein said content is accessible only in exchange for a payment(Gruse et al., Abstract, Col. 49, Lines 60-67, Col. 50, Lines 1-30).

As per claim 28.

Gruse et al. disclose a method, as claimed in claim 24, wherein said advertisement is automatically displayed in response to at least one instance of an insertion of said

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optical disk(Patterson, Abstract, Col. 3, Lines 20-45) into a player apparatus(Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50).

For claims 27-28, Gruse et al. fail to disclose optical disk.

Patterson discloses optical disk(Patterson, Abstract, Col. 3, Lines 20-45).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gruse et al. to include optical disk as taught by Patterson to get the benefit of initially structured media on a CD-ROM.

As per claim 2 (Twice Amended).

Gruse et al. disclose a method, as claimed in claim 1, wherein said step of distributing comprises distributing said first permission code(Gruse et al., Abstract, Col. 49, Lines 30-60) via an Internet communications link(Gruse et al., Abstract, Col. 1, Lines 55-65).

As per claim 3 (Previously Amended).

Gruse et al. disclose a method, as claimed in claim 1, wherein said storable content (Gruse et al., Abstract, Col. 3, Lines 20-35)includes content selected from among text content, music content, software and motion picture content.

As per claim 5 (Previously Amended).

Gruse et al. disclose a method, as claimed in claim 1, further comprising distributing to said media reader, a second permission code(Gruse et al., Abstract, Col. 49, Lines 30-60) requested by a second user, different from said first user at a second time, later than said first time, in exchange for a second payment wherein said media stores a second code related to a second access code(Gruse et al., Abstract, Col. 35, Lines 30-35) on said media, wherein said second access code(Gruse et al., Abstract, Col. 35, Lines 30-35) permits at least a second access to said storable content, different from said first access, by providing said second access code(Gruse et al., Abstract, Col. 35, Lines 30-35) to said reader apparatus(Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50), using said second code.

As per claim 6.

Gruse et al. disclose a method, as claimed in claim 1, further comprising providing at least said first access to said storable content (Gruse et al., Abstract, Col. 3, Lines 20-35)by providing said first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) to a second reader apparatus, different from said first reader apparatus, using said first code, in the absence of a need for an additional payment(Gruse et al., Abstract, Col. 49, Lines 30-65, Col. 50, Lines 1-25).

As per claim 9.

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Gruse et al. disclose a method, as claimed in claim 8, wherein said communications link is an Internet link (Gruse et al., Abstract, Col. 1, Lines 55-65).

As per claim 10.

Gruse et al. disclose a method, as claimed in claim 1, further comprising calculating said first code based on a combination of said permission code(Gruse et al., Abstract, Col. 49, Lines 30-60) and said media identifier number (Gruse et al., Abstract, Col. 31, Lines 35-41, Col. 32, Lines 45-50).

As per claim 11.

Gruse et al. disclose a method, as claimed in claim 1, wherein said first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) is said first code.

As per claim 12.

Gruse et al. disclose a method, as claimed in claim 1, wherein said first payment is a payment performed by authorizing a charge to a credit or debit account over a communications link(Gruse et al., Abstract, Col. 1, Lines 55-65, Col. 49, Lines 30-60).

As per claim 13.

Gruse et al. disclose a method, as claimed in claim 1 wherein said first code is calculated by a computer which is remotely connected to said reader device (Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50) over a communications link(Gruse et al., Abstract, Col. 1, Lines 55-65).

As per claim 14.

Gruse et al. disclose a method, as claimed in claim 13 wherein said communications link is an Internet link(Gruse et al., Abstract, Col. 1, Lines 55-65).

As per claim 16.

Gruse et al. disclose a method, as claimed in claim 15, further comprising storing a second code related to a second access code(Gruse et al., Abstract, Col. 35, Lines 30-35) on said media obtained at a second time, later than said first time, in exchange for a second payment(Gruse et al., Abstract, Col. 49, Lines 60-67, Col. 50, Lines 1-30); and providing at least second access, different from said first access, to said storable content (Gruse et al., Abstract, Col. 3, Lines 20-35)by providing said second access code(Gruse et al., Abstract, Col. 35, Lines 30-35) to said reader apparatus(Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50), using said second code.

As per claim 19.

Gruse et al. disclose a method, as claimed in claim 17, further comprising storing a second code related to a second access code(Gruse et al., Abstract, Col. 35, Lines 30-35) on said writeable media obtained at a second time, later than said first time, in

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exchange for a second payment(Gruse et al., Abstract, Col. 49, Lines 60-67, Col. 50, Lines 1-30); and
providing at least second access, different from said first access, to said copied content by providing said second access code(Gruse et al., Abstract, Col. 35, Lines 30-35) to said reader apparatus(Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50), using said second code.

As per claim 21.

Gruse et al. disclose a method for distribution of storable content (Gruse et al., Abstract, Col. 3, Lines 20-35) comprising:

distributing a plurality of media each including at least said storable content (Gruse et al., Abstract, Col. 3, Lines 20-35) and a distinct media identifier number (Gruse et al., Abstract, Col. 31, Lines 35-41, Col. 32, Lines 45-50), to a plurality of users including a first user, said media readable by at least a first media reader apparatus (Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50) only in response to an access code(Gruse et al., Abstract, Col. 35, Lines 30-35);
storing a first code related to a first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) on said media, at a first time, in exchange for a first payment; and
providing at least first access to said storable content (Gruse et al., Abstract, Col. 3, Lines 20-35) by providing said first access code(Gruse et al., Abstract, Col. 35, Lines 30-35) to said first reader apparatus(Gruse et al., Abstract, Col. 6, Lines 25-31, Col. 10, Lines 35-50, Col. 14, Lines 20-50), using said first code.

As per claim 22.

Gruse et al. disclose a method of claim 21 wherein said storable content (Gruse et al., Abstract, Col. 3, Lines 20-35) includes information content-mastered content(Gruse et al., Abstract, Col. 11, Lines 65-67, Col. 12).

As per claim 23.

Gruse et al. disclose a method of claim 21 wherein said storable content (Gruse et al., Abstract, Col. 3, Lines 20-35) includes serially-written content.

6. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruse et al. and Patterson as applied to claim 15 above, and further in view of Walker et al. (US 6397193 B1).

As per claim 29.

Gruse et al. and Patterson disclose a method, as claimed in claim 15.

Gruse et al. and Patterson fail disclose wherein said retail location comprises a vending machine.

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Walker et al. disclose wherein said retail location comprises a vending machine(Walker et al., Abstract) to get the benefit of multiple retail locations.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gruse et al. to include retail location comprises a vending machine as taught by Walker et al. to get the benefit of multiple retail locations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra F. Charles whose telephone number is (703) 305-4718. The examiner can normally be reached on 9-5 Monday thru Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Debra F. Charles
Examiner
Art Unit 3629

dfc
June 14, 2002



DEANT. NGUYEN
PRIMARY EXAMINER